



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 16, 2019

Ms. Whitney Vestal Higgins
Counsel for Harris County Municipal Utility District No. 147
Allen Boone Humphries Robinson, L.L.P.
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

OR2019-29011

Dear Ms. Higgins:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 790112.

The Harris County Municipal Utility District No. 147 (the "district"), which you represent, received a request for five categories of information pertaining to a specified property. You state the district has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that is made confidential by other statutes. You raise section 552.101 in conjunction with section 418.181 of the Texas Homeland Security Act (the "HSA"). Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.181 provides:

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. The fact that information may relate to a governmental body's security measures does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

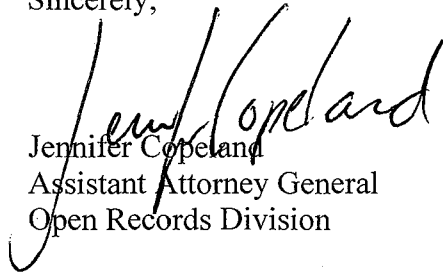
You seek to withhold the submitted information under section 418.181. You inform us the submitted information contains technical details of the district's sanitary sewer system, including locations and technical specifications for wastewater conveyance lines. You contend, and we agree, the district's sanitary sewer system is critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001 (2) (defining "critical infrastructure" to include "all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or nation"). Further, you state release of the submitted information could cause this critical infrastructure to be compromised, interfered with, or incapacitated, putting public health and safety at risk. Based on your representations and our review of the information at issue, we find you have demonstrated the applicability of section 418.181 to some of the submitted information. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, we find the district has failed to demonstrate the remaining information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Consequently, we find the district may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The district must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 790112

Enc. Submitted documents

c: Requestor
(w/o enclosures)